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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/727,823 | 12/03/2003 | Brian J. Brozell | 18039 USA | 7485 |
| 27081 | 7590 | 03/24/2006 | EXAMINER | |
| OWENS-ILLINOIS, INC. ONE SEAGATE, 25-LDP TOLEDO, OH 43666 | | | SMALLEY, JAMES N | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3727 | |

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/727,823 | Applicant(s) BROZELL ET AL. | |
| | Examiner James N. Smalley | Art Unit 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/03; 6/05</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Reiss et al. US 4,032,028.
Reiss '028 teaches container (22) with a neck thread (30) and lug (34).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14, 18-34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. US 4,032,028 in view of Cooke US 4,739,890 and in view of Cooke US 4,139,112.

Reiss '028 teaches a threaded closure cap (20) with a stop lug (44) to prevent advancement or removal of a closure cap, and the closure cap carrying a spring element (52).

Reiss '028 fails to teach the closure having a pair of lugs.

Cooke '890 teaches, in the embodiment of figure 8, a closure lug (48) and a pair of container lugs (56a) and (56b) for preventing threaded advancement, and removal, of the closure. The lugs include stop lug cam surfaces (60) and (62), pocket (66a) and an axial stop surface (unlabeled; opposite face (58) on lug (56a)).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lugs of Reiss '028, providing those taught by Cooke '890 because such is an equivalent means for preventing advancement and removal of a threaded closure. Furthermore, it would

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have been obvious to reverse the location of the parts of the invention, providing lugs (56a) and (56b) on the closure skirt, and the stop lug on the container, because it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Reiss '028, as modified, fails to teach a pair of lugs.

Cooke '112 teaches it is known to provide a plurality of stop lugs (26a, b, c) on a threaded closure (10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the closure cap of Reiss '028, providing a pair of the stop lugs taught by Cooke '890, because it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

5. Claims 15-16 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. US 4,032,028 in view of Cooke US 4,739,890 and in view of Cooke US 4,139,112, as applied above to claim 1 above and further in view of Hedgewick US 3,917,096.

Reiss '028, as modified, fails to teach a spring element with a spring stop.

Hedgewick '096, in the embodiment of figure 2, teaches it is known to provide a closure cap with an annular spring element which also seals the container, and which is provided with a spring stop flange (unlabeled) to prevent overcompression of the spring element.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the closure cap of Reiss '028, replacing the resilient seal with the annular spring and spring stop taught by Hedgewick '096, because such is an equivalent means to bias a closure into a bayonet-type connection with a container, while also sealing the container interior.

Regarding claims 37-38, in providing the spring element of Hedgewick '096 to the closure of Reiss '028, the claimed method is obvious.

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6. Claims 17, 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. US 4,032,028 in view of Cooke US 4,739,890 and in view of Cooke US 4,139,112, as applied above to claims 1, 30 and 37 and further in view of Montgomery US 6,378,713.

Reiss '028 fails to teach the spring element being formed of a plurality of spring elements.

Montgomery '713 teaches it is known to form a spring element of a plurality of spring elements (20), and furthermore to provide an annular plug flange (16) to seal the container interior.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the closure cap of Reiss '028, providing the spring element as a plurality of spring elements as taught by Montgomery '713, because such is a known mechanical expedient means of resiliently biasing a bayonet-type closure cap.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
See attached PTO-892 citing relevant references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on M-Th 9-6:30, Alternate Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jns



NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER